

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

W. A. DREW EDMONDSON, in his )  
capacity as ATTORNEY GENERAL )  
OF THE STATE OF OKLAHOMA and )  
OKLAHOMA SECRETARY OF THE )  
ENVIRONMENT C. MILES TOLBERT, )  
in his capacity as the )  
TRUSTEE FOR NATURAL RESOURCES )  
FOR THE STATE OF OKLAHOMA, )

Plaintiff, )

vs. )

TYSON FOODS, INC., et al, )

Defendants. )

4:05-CV-00329-TCK-SAJ

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VOLUME I OF THE VIDEOTAPED  
30(b)(6) DEPOSITION OF TIM ALSUP, produced as a  
witness on behalf of the Plaintiff in the above  
styled and numbered cause, taken on the 24th day of  
June, 2008, in the City of Tulsa, County of Tulsa,  
State of Oklahoma, before me, Lisa A. Steinmeyer, a  
Certified Shorthand Reporter, duly certified under  
and by virtue of the laws of the State of Oklahoma.

**TULSA FREELANCE REPORTERS**  
**918-587-2878**

**EXHIBIT**

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TIM ALSUP

having first been duly sworn to testify the truth,  
the whole truth and nothing but the truth, testified  
as follows:

DIRECT EXAMINATION

BY MR. GARREN:

Q Mr. Alsup, please state your name for the  
Record, please.

A Tim Alsup.

Q All right, and have you ever given a 09:11AM  
deposition before?

A Yes, sir.

Q And how many depositions have you given?

A One.

Q And was that the one in the City of Tulsa case 09:11AM  
in August of 2002?

A Yes, sir.

Q All right. No other depositions in either  
civil or criminal matters?

A No, sir. 09:12AM

Q Okay. I'm going to be asking questions today.  
If you don't understand my questions, please ask me  
to rephrase them or reword them so that you can, so  
that we can get a clear understanding between  
ourselves to what I'm asking and what your answers 09:12AM

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1 are. All right? If we need to take a break, we  
2 can. We'll break generally every hour because of  
3 changing the tape.

4 A Okay.

5 Q So we usually use that as time to refresh or 09:12AM  
6 do whatever you need to do.

7 A Okay.

8 Q All right. Identify your current employer,  
9 please.

10 A Cargill Turkey Production, LLC. 09:12AM

11 Q How long have you been employed with the  
12 Cargill Turkey Production, LLC?

13 A Four years.

14 Q Were you employed then at the time of its  
15 inception? 09:12AM

16 A The inception of Cargill?

17 Q Cargill Turkey, LLC.

18 A Yes, sir.

19 Q All right. Who did you work for before that?

20 A Cargill, Incorporated. 09:12AM

21 Q We'll come back to that and let me ask you  
22 about your education. You have a degree in poultry  
23 science from the University of Arkansas; is that  
24 correct?

25 A Yes, sir. 09:13AM

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1 that the eggs are picked up from the breeder farms,  
2 put them in the incubators, hatch out the poults and  
3 deliver them to our contract producers.

4 Q Okay. Was your next position then as grow-out  
5 manager after being a hatchery manager?

09:22AM

6 A Yes, sir.

7 Q Okay. What period were you grow-out manager?

8 A Approximately from '92 to 2000, 2001.

9 Q What are the duties of grow-out manager?

10 A You supervise the flock supervisors who are  
11 actually visiting the farms. You schedule  
12 placements for the contract producers, schedule  
13 processing dates for those birds as well.

09:22AM

14 Q When you say you schedule contract producers,  
15 you're talking about scheduling the birds being  
16 placed in their facilities?

09:23AM

17 A Yes, sir.

18 Q Then you also schedule when they're picked up;  
19 is that what you're saying?

20 A Yes, sir.

09:23AM

21 Q When did you obtain the title of environmental  
22 coordinator?

23 A My official title was Precision Ag manager. I  
24 don't guess it's ever really been changed, but part  
25 of those duties of being Precision Ag manager kind

09:23AM

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1 of involved environmental coordination back in 2003.

2 Q Are you saying that's when they began, that  
3 kind of involved environmental coordination began in  
4 '03?

5 A I'm saying that the -- the title of 09:24AM  
6 environmental coordinator I've never really had.  
7 Was I responsible for environmental  
8 responsibilities, everybody in Cargill is  
9 responsible for environmental responsibilities so --

10 Q We talked earlier. Do you recall your 09:24AM  
11 testimony on August 21, 2002 in the City of Tulsa  
12 versus Tyson case involving Eucha-Spavinaw?

13 A Okay.

14 Q And in that deposition, at Page 5 of the  
15 deposition you were asked what is your occupation or 09:25AM  
16 profession. Your answer was, I'm the environmental  
17 coordinator for Cargill, Incorporated, and I do some  
18 scheduling for the Springdale plant. Do you  
19 remember that answer?

20 A No, sir, I don't remember, but okay. 09:25AM

21 Q Do you remember you were under oath at that  
22 deposition?

23 A Uh-huh.

24 Q That's a yes?

25 A Yes, sir. 09:25AM

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1 referred to, inside the boundaries of the Illinois  
2 River watershed?

3 A I believe two -- yes, sir.

4 Q Which ones?

5 A All three of them I believe. 09:29AM

6 Q Can you give me the names of the growers?

7 A One of them was -- his name was Wheaton.

8 Another one -- his last name was Simmons, and the  
9 third one escapes me. He's outside Lincoln. I  
10 don't remember the third one. 09:30AM

11 Q Are either of these three growers still  
12 growing for Cargill, what would be today the CTP,  
13 LLC?

14 A No, sir.

15 Q Does Cargill, Inc., have specifications that 09:30AM  
16 it requires for the grow-out or brood houses that  
17 are to be used by its growers?

18 A You mean -- yes, they do have to have a  
19 watering system, ventilation system, feeding  
20 systems. 09:31AM

21 Q Do they have any size restrictions, any other  
22 types of equipment requirements that must be met  
23 before birds are placed?

24 A I'm sorry, what do you mean by size  
25 restrictions? 09:31AM

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1 of the top or if a varmint can get in there and  
2 scratch around on it and dig in it, then I mean  
3 that's part of their on-the-job training when  
4 they're learning how to be a flock supervisor.

5 Q Who then would provide that training to a 09:38AM  
6 flock supervisor in the Cargill entity?

7 A The production manager is their direct  
8 supervisor.

9 Q All right, and who would be the production  
10 manager in the Springdale complex today for the LLC? 09:38AM

11 A Jason Witt.

12 Q All right, thanks. It's correct, is it not,  
13 that flock supervisors visit generally weekly or  
14 more often for the farms under their care or  
15 supervision? 09:39AM

16 A Yes, sir.

17 Q And when those flock supervisors make these  
18 inspections or visits, do they prepare and fill out  
19 a report each time?

20 A I do not know about each time, but they do 09:39AM  
21 fill -- a lot of the times there is a report, a  
22 visitation report filled out.

23 Q All right, and as part of their duties and  
24 responsibilities in making the inspection at the  
25 various grow-out facilities, do they check on the 09:39AM

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1 temperature controls in the barn?

2 A If there is a temperature -- if they feel it's  
3 too hot or too cold, they may check on it, yes.

4 Q So they actually take some temperature, do  
5 they not?

09:40AM

6 A Yes, sir.

7 Q All right, and some of these temperature  
8 controls are by computer as I understand it; is that  
9 true?

10 A There are some contract farming operations  
11 that have computer controls, yes.

09:40AM

12 Q So if need be, though, he would adjust those  
13 controls if he thought it was important to do so?

14 A Only -- there's two instances, one, if he has  
15 a good enough relationship with a grower -- if the  
16 grower is not around -- if the grower is there, they  
17 don't, but if the grower is not there and it looks  
18 like the birds may be in a little distress because  
19 they're too hot, he may adjust the fans to get some  
20 more air. He'll note it if that's what you're  
21 talking about.

09:40AM

09:40AM

22 Q That's fine. If the grower is in fact there,  
23 though, he would speak with the grower and ask him  
24 to make that adjustment; correct?

25 A Yes, sir.

09:41AM

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1 Q Likewise, the flock supervisor would check  
2 water supplies to the birds on these inspections?

3 A Yes, sir. They look to see if there's water  
4 available for the birds.

5 Q And if there are issues or problems with 09:41AM  
6 regards to the water supplies, they would make the  
7 adjustment or ask the grower to make adjustments;  
8 correct?

9 MR. WALKER: Object to the form.

10 A If there is no water, let's say, they would 09:41AM  
11 try to go find the grower. You're getting into the  
12 well and electrical and that, but they probably  
13 wouldn't know what adjustments to make, but if it  
14 was -- if a waterer was overflowing, let's say, and  
15 causing a spill, they could pinch the hose off and 09:41AM  
16 so it wouldn't get any bigger and then would tell  
17 the grower that, yes.

18 Q The birds drink from a nipple; is that  
19 correct?

20 A Only in -- only in some of the brooder houses. 09:42AM  
21 The --

22 Q If those nipples are not at the proper height  
23 for the birds, would a flock supervisor either  
24 adjust them or ask the grower to adjust them?

25 MR. WALKER: Object to the form. 09:42AM

1 A Yes, sir.

2 Q In addition to preparing this report, he would  
3 speak to the grower about things that may or may not  
4 be on the report; correct?

5 A Yes, sir, they do visit with the growers. 09:46AM

6 Q Is it part of the flock supervisor's duty to  
7 check every subject matter or item that are listed  
8 on the forms that have those check boxes or spaces?  
9 For example, we're looking at 10918. We see  
10 basically seven items here, temperature, 09:46AM  
11 ventilation, water, feed, litter, biosecurity and  
12 curtain drop; do you see those subjects?

13 A Yes, sir.

14 Q Is it generally the responsibility of a flock  
15 supervisor to check each of those items at each 09:46AM  
16 inspection?

17 A He will -- everything except the curtain drop.  
18 That's only done -- I believe at this time they were  
19 doing it two times a year, testing them one to two  
20 times a year. 09:47AM

21 Q So at those times a flock supervisor would  
22 test whether the curtains drop and raise properly;  
23 is that what I understand you to say?

24 A Yes, sir.

25 Q All right, but other than that, the rest of 09:47AM

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1 was some standards set out for maybe what proper  
2 housing was, and I think it had to do with  
3 equipment, insulation, stoves, things of that  
4 matter.

5 Q And you say at one time there were standards. 10:01AM  
6 Do you know what time roughly we would be -- that  
7 this live production service manual that we're  
8 looking at, Exhibit 27 would have come into being  
9 and use?

10 A It looks like it would have been in use in the 10:01AM  
11 '90's.

12 Q Okay. Going to the next page, 142602, which  
13 is the second page of the document, standards for  
14 proper house preparation 2A, it says wet and cake  
15 litter removed; do you see that? 10:02AM

16 A Yes, sir.

17 Q All right, and that's something that Cargill  
18 would expect to occur. Is that what I understand  
19 this to tell us?

20 A It is a practice to remove the cake litter, 10:02AM  
21 caked litter.

22 Q Okay, and go to the next page, which is Page 3  
23 of the document, Item C1. It says under litter  
24 management, wet and caked litter should be removed  
25 when recommended by supervisor. Do you see that? 10:02AM

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1 A Yes, sir.

2 Q All right, and the supervisor it's referring  
3 to here would be the flock supervisor; correct?

4 A Yes, sir.

5 Q All right. The next page in this document, 10:02AM  
6 it's Page 142604. This says Class B housing  
7 standards. So do I understand that there are --  
8 this says improper housing. Do you understand what  
9 that is telling us in this manual?

10 A If they did not meet the requirements for the 10:03AM  
11 Class A housing, it would have been put into this  
12 category.

13 Q All right. So then these are criteria then  
14 that need to be accomplished in order to have a  
15 Class B housing; is that what I understand? 10:03AM

16 A Yes, sir.

17 Q Whose responsibility is it to communicate  
18 the -- whether a grower has houses that qualify  
19 under the Class A or Class B housing requirements?

20 A That -- I don't believe that is being used, 10:04AM  
21 but at that time in the '90's, it would have been  
22 the flock supervisor and the grow-out manager,  
23 production manager.

24 Q Look at the next page, 142605. Are you there?  
25 House preparation and sanitation of brooder house. 10:04AM

1 A Yes, sir.

2 Q Tell the court what a brooder house is.

3 A A brooder house is the house that baby turkeys  
4 or poults are delivered to. They -- it's not like  
5 chickens where they go to all the houses. They go  
6 to a specific house.

10:04AM

7 Q Okay, and Item 4 of this particular page, it  
8 says in the second sentence of that paragraph, if  
9 there has been no health problems with previous  
10 flock, litter may be reused, but consult your flock  
11 supervisor on what should be done before any is  
12 removed. Is that still the condition or did that  
13 continue to be a condition for Cargill growers?

10:05AM

14 MR. WALKER: Object to the form.

15 A The brooder -- the litter in the brooder house  
16 is now used in the grow-out. It's just -- the birds  
17 are real small in a brooder house, so it's mainly  
18 just shavings. So looks like at this time they were  
19 even reusing it because it was still mainly shavings  
20 but --

10:05AM

21 Q I'm sorry. Go ahead.

22 A But now that litter is -- that bedding and  
23 litter material is used in the grow-out house.

24 Q Understanding that, though, this says he  
25 should consult to the flock supervisor when it's

10:05AM

1 removed; will you agree with that?

2 A Yes, it does say that.

3 Q We need to stop and change our tape and take a  
4 break.

5 VIDEOGRAPHER: We're now off the Record. 10:06AM

6 We're off at 10:05 a.m.

7 (Following a short recess at 10:06  
8 a.m., proceedings continued on the Record at 10:10  
9 a.m.)

10 VIDEOGRAPHER: We are back on the Record. 10:10AM

11 The time is 10:10 a.m.

12 Q Mr. Alsup, you may close that one, and I'll  
13 hand you a new exhibit, No. 28. It's a turkey

14 management handbook, Cargill live production team,

15 Springdale, dated 1990 to '91, and it starts at 10:11AM

16 Bates number 229516. Is this the grow-out

17 management manual that is provided to growers that

18 you referred to earlier in your testimony?

19 A This is -- this would have been given to them,  
20 yes. 10:11AM

21 Q Okay. Do you know how long this particular  
22 version was used by Cargill?

23 A No, sir.

24 Q Do you know whether or not this particular  
25 version that we're looking at has been since revised 10:12AM

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1 Q All right. So I said service tech. Is that  
2 what you also know to be a similar name for a flock  
3 supervisor?

4 A Yes, sir.

5 Q All right, and I apologize for using a 10:16AM  
6 different one, but it seems to be interchangeable  
7 from what I'm understanding, but even though they  
8 may prepare it, is it expected that the flock  
9 supervisor have a working knowledge of the grower  
10 manual that's provided to its growers? 10:16AM

11 A They do have a working knowledge.

12 Q Look at page Bates number 229541. It's Page  
13 26 of the actual document. This has a revision date  
14 it looks like coded at the bottom October 1, 1990.

15 Do you see that? 10:17AM

16 A Yes, sir.

17 Q All right, and in Paragraph B of this  
18 particular page, it says remove and spread all caked  
19 litter from house, and then it also says in the  
20 parenthesis there, do not pile outside of house 10:17AM  
21 unless 100 feet away from the house or houses and  
22 coughed to prevent groundwater contamination from  
23 rain runoff; do you see that?

24 A Yes, sir.

25 Q All right. Can you tell me why Cargill would 10:17AM

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1 require the pile to be 100 feet away from the  
2 houses?

3 A Biosecurity.

4 Q All right, and the biosecurity is to protect  
5 birds?

10:17AM

6 A Bird health.

7 Q Okay. It's not there to protect humans also?

8 A No. It's bird health.

9 Q Okay, and when it says it's to be covered to  
10 prevent groundwater contamination from rain runoff,  
11 what is that attempting to tell the grower; what do  
12 you understand that to mean?

10:17AM

13 A At that time there was some nitrogen concerns,  
14 and my terminology that was given to me at the time  
15 was Blue Baby. If nitrates got in the well water,  
16 it could cause a condition called Blue Baby, and I  
17 don't know about that, but that would have been to  
18 address -- I think that Blue Baby thing started with  
19 commercial fertilizer and crops, but litter does  
20 have nitrates in it, so there was a some -- there  
21 may even have been some studies going on or federal  
22 and state and local governments were looking at it,  
23 but that's what that's addressing.

10:18AM

10:18AM

24 Q Were flock supervisors then advised to watch  
25 for these particular instructions and see that

10:18AM

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1 Cargill or for the grower?

2 A For the grower.

3 Q All right. So this may pass through the  
4 grower's hands to its contractor for purposes of  
5 building a new barn?

10:22AM

6 MR. WALKER: Object to the form.

7 A I believe that is the -- yes, I believe that's  
8 the purpose of this.

9 Q Let me ask you this because it doesn't say  
10 anything on there. Is this a document that Cargill  
11 would have itself created for that purpose to build  
12 a new barn?

10:22AM

13 A Yes, sir, I believe so.

14 Q And so when that barn is built, these  
15 specifications are expected to be met in order to  
16 grow birds for Cargill in a brood barn?

10:22AM

17 MR. WALKER: Object to the form.

18 A This would have been some minimal standards  
19 that needed to be done in a new house, yes.

20 Q Okay. Now, the next document in this is  
21 called a grow barn. It looks very similar. It  
22 starts at Page 144360 and goes to 369. I think we  
23 talked earlier, there's a difference between a brood  
24 barn and then the grow-out barn; correct?

10:22AM

25 A Yes, sir.

10:23AM

1 Q All right. So is this document similar to  
2 what we just talked about on the brood barn as  
3 showing the minimum specifications for building a  
4 new barn that would be used as a grow-out house?

5 A Yes, sir. It appears so.

10:23AM

6 Q Do you know when these -- well, they have a  
7 date on them of August of '02 so this would have  
8 been Cargill documents. Looking at the very last  
9 page of this document, it has a form named

10 acknowledgment. It says, first sentence, I hereby  
11 acknowledge that Cargill has provided me with a  
12 turkey grower's housing package, which includes an  
13 estimated income projection; do you see that?

10:23AM

14 A Yes, sir.

15 Q Tell me what an estimated income projection is  
16 that a grower would acknowledge in signing this  
17 form.

10:24AM

18 A If a grower, if some individual wants to build  
19 a new or at least is looking at building a new farm,  
20 new setup, Cargill has this -- the standards, you  
21 know, what minimum standards needs to go in the  
22 house, but most of these individuals have to go to a  
23 bank and borrow money, and Cargill does provide an  
24 estimated income projection to give them a general  
25 idea of what the income will be.

10:24AM

10:24AM

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1 Q And when you say them, are you talking about  
2 the grower or the banker?

3 A We give it to the grower but -- the future --  
4 the possible future grower, but they need something  
5 to go to the bank with. 10:25AM

6 Q All right. In order to help secure financing  
7 to build and have a grow-out facility?

8 A Yes, sir.

9 Q Or a growing facility?

10 A Yes, sir. 10:25AM

11 Q All right. Let's go back now, if you would,  
12 to near the front of the document at 144352. It has  
13 selecting turkey house site. What is the reason  
14 under Provision B that no greater than 50 road miles  
15 from Cargill feed mill; what is the reason for that? 10:25AM

16 A At that time I believe in '02 Cargill had that  
17 distance from the mill setup, that we really didn't  
18 want to go beyond 50 miles from the mill.

19 Q Is that specification different today for the  
20 LLC? 10:25AM

21 A Yes, sir.

22 Q What is it today?

23 A I don't know if there's a specific. We have  
24 farms further than that now.

25 Q And when you have a new farm come online, do 10:26AM

1 those two that you identified that were --I believe  
2 those were involved with Cargill, Inc.; correct?

3 A Uh-huh.

4 Q So those wouldn't be applicable for the LLC  
5 questions. Has the LLC disciplined any of its 11:03AM  
6 growers for failing to adhere to any environmental  
7 laws, rules or regulations?

8 A No, sir.

9 Q Prior to July 1, 1998, did Cargill know what  
10 its growers, contract growers did with the poultry 11:04AM  
11 waste that was produced by the birds in the barn?

12 A Specifically, no.

13 Q Generally did they know what was done with the  
14 poultry waste that was removed prior to 1998?

15 MR. WALKER: Object to the form. 11:04AM

16 A Generally Cargill understood that the turkey  
17 litter was being utilized either by them or others  
18 as a fertilizer.

19 Q In fact, we saw a document earlier here today  
20 that said they should clean out and spread it, and 11:05AM  
21 we talked about that being spread on the land;  
22 correct?

23 A Yes, sir.

24 Q Okay. Would you agree with me that since 1998  
25 Cargill's knowledge, that general knowledge about 11:05AM

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